

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TRE BARBER,

Plaintiff,

Case No. 23-cv-10095  
Honorable Linda V. Parker

v.

CUNNINGHAM, et al.,

Defendants.

/

**OPINION AND ORDER (1) ADOPTING MAGISTRATE JUDGE'S  
MARCH 7, 2024 REPORT AND RECOMMENDATION; (2) GRANTING  
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT; (3) AND SUA  
SPONTE DISMISSING CLAIMS WITHOUT PREJUDICE AGAINST  
JOHN DOE DEFENDANTS**

Plaintiff commenced this lawsuit against Defendants, which was transferred to this District on January 12, 2023. On November 9, 2023, Defendant Cunningham filed a motion for summary judgment, (ECF No. 20), to which Plaintiff failed to respond. The matter has been assigned to Magistrate Judge Kimberly G. Altman for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 21.)

On March 7, 2024, Magistrate Judge Altman issued a report and recommendation (“R&R”) recommending that the Court grant Defendant

Cunningham's summary judgment motion and sua sponte dismiss the two John Doe Defendants. (ECF No. 23.) Magistrate Judge Altman concludes that Plaintiff failed to exhaust his claims through the Michigan Department of Corrections prison grievance system.

At the conclusion of the R&R, Magistrate Judge Altman advises the parties that they may object to and seek review of the R&R within fourteen days of service upon them. She further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right to appeal.” (*Id.*) Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Altman. The Court therefore adopts the R&R.

Accordingly,

**IT IS ORDERED** that Defendant Cunningham's motion for summary judgment (ECF No. 20) is **GRANTED** and the John Doe Defendants are **SUA SPONTE DISMISSED WITHOUT PREJUDICE.**

s/ Linda V. Parker  
LINDA V. PARKER  
U.S. DISTRICT JUDGE

Dated: April 3, 2024

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, April 3, 2024, by electronic and/or U.S. First Class mail.

s/Aaron Flanigan  
Case Manager